

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

ANTHONY RANDALL,

Plaintiff,

vs.

UNITED NETWORK FOR ORGAN
SHARING; CEDARS-SINAI
MEDICAL CENTER,

Defendants.

Case No. 2:23-cv-02576-MEMF (MAAx)

**~~[PROPOSED]~~ ORDER GRANTING
STIPULATED PROTECTIVE
ORDER**

Ctrm.: 8B – 8th Floor

Judge: Maame Ewusi-Mensah Frimpong

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection from public disclosure and from use for any purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby stipulate to and petition the Court to enter the following Stipulated Protective Order. The parties acknowledge that this Order does not confer blanket protections on all disclosures or responses to discovery and that the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles. The parties further acknowledge, as set forth below, that this Stipulated Protective Order does not entitle them to file confidential information

1 under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed and
2 the standards that will be applied when a party seeks permission from the court to file
3 material under seal.

4 The existence of this Protective Order does not make discoverable any material
5 or information that is otherwise not subject to discovery based on rights of privacy or
6 confidentiality.

7 **2. GOOD CAUSE STATEMENT**

8 This action is likely to involve confidential medical records and medical
9 information, valuable research, development, commercial, financial, technical and/or
10 proprietary information for which special protection from public disclosure and from
11 use for any purpose other than prosecution of this action is warranted. Such
12 confidential and proprietary materials and information consist of, among other things,
13 confidential medical records and medical information, business or financial
14 information, information regarding confidential business practices, or other
15 confidential research, development, or commercial information (including
16 information implicating privacy rights of third parties), information otherwise
17 generally unavailable to the public, or which may be privileged or otherwise protected
18 from disclosure under state or federal statutes, court rules, case decisions, or common
19 law. Accordingly, to expedite the flow of information to the extent state and federal
20 law allows disclosure, to facilitate the prompt resolution of disputes over
21 confidentiality of discovery materials, to adequately protect information the parties
22 are entitled to keep confidential, to ensure that the parties are permitted reasonable
23 necessary uses of such material in preparation for and in the conduct of trial, to address
24 their handling at the end of the litigation, and serve the ends of justice, a protective
25 order for such information is justified in this matter. It is the intent of the parties that
26 information will not be designated as confidential for tactical reasons and that nothing
27 be so designated without a good faith belief that it has been maintained in a
28 confidential, non-public manner, and there is good cause why it should not be part of

1 the public record of this case.

2 3. DEFINITIONS

3 3.1 Action: *Anthony Randall v. United Network for Organ Sharing, et al.*,
4 2:23-cv-02576-MEMF-MAA (C.D. Cal.).

5 3.2 Challenging Party: A Party or Non-Party that challenges the designation
6 of information or items under this Order.

7 3.3 “CONFIDENTIAL” Information or Items: Information (regardless of
8 how it is generated, stored or maintained) or tangible things that qualify for protection
9 under Federal Rule of Civil Procedure 26(c) and/or as provided by applicable state
10 and federal law, and as specified above in the Good Cause Statement.

11 3.4 Counsel: Outside Counsel of Record and House Counsel (as well as their
12 support staff).

13 3.5 Designating Party: A Party or Non-Party that designates information or
14 items that it produces in disclosures or in responses to discovery as
15 “CONFIDENTIAL.”

16 3.6 Disclosure or Discovery Material: All items or information, regardless
17 of the medium or manner in which it is generated, stored, or maintained (including,
18 among other things, testimony, transcripts, and tangible things), that are produced or
19 generated in disclosures or responses to discovery in this matter.

20 3.7 Expert: A person with specialized knowledge or experience in a matter
21 pertinent to the litigation who has been retained by a Party or its counsel to serve as
22 an expert witness or as a consultant in this Action.

23 3.8 House Counsel: Attorneys who are employees of a party to this Action.
24 House Counsel does not include Outside Counsel of Record or any other outside
25 counsel.

26 3.9 Non-Party: Any natural person, partnership, corporation, association, or
27 other legal entity not named as a Party to this action.

28 3.10 Outside Counsel of Record: Attorneys who are not employees of a party

1 to this Action but are retained to represent or advise a party to this Action and have
 2 appeared in this Action on behalf of that party or are affiliated with a law firm which
 3 has appeared on behalf of that party, and includes support staff.

4 3.11 Party: Any party to this Action, including all of its officers, directors,
 5 employees, consultants, retained experts, insurers, and Outside Counsel of Record
 6 (and their support staffs).

7 3.12 Producing Party: A Party or Non-Party that produces Disclosure or
 8 Discovery Material in this Action.

9 3.13 Professional Vendors: Persons or entities that provide litigation support
 10 services (e.g., photocopying, videotaping, translating, preparing exhibits or
 11 demonstrations, and organizing, storing, or retrieving data in any form or medium)
 12 and their employees and subcontractors.

13 3.14 Protected Material: Any Disclosure or Discovery Material that is
 14 designated as “CONFIDENTIAL.”

15 3.15 Receiving Party: A Party that receives Disclosure or Discovery Material
 16 from a Producing Party.

17 4.0 SCOPE

18 The protections conferred by this Stipulation and Order cover not only
 19 Protected Material (as defined above), but also (1) any information copied or extracted
 20 from Protected Material; (2) all copies, excerpts, summaries, or compilations of
 21 Protected Material; and (3) any testimony, conversations, or presentations by Parties
 22 or their Counsel that might reveal Protected Material.

23 Any use of Protected Material at trial shall be governed by the orders of the
 24 trial judge. This Order does not govern the use of Protected Material at trial.

25 5. DURATION

26 Even after final disposition of this litigation, the confidentiality obligations
 27 imposed by this Order shall remain in effect until a Designating Party agrees
 28 otherwise in writing or a court order otherwise directs. Final disposition shall be

1 deemed to be the later of (1) dismissal of all claims and defenses in this Action, with
 2 or without prejudice; and (2) final judgment herein after the completion and
 3 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
 4 including the time limits for filing any motions or applications for extension of time
 5 pursuant to applicable law.

6 6. DESIGNATING PROTECTED MATERIAL

7 6.1 Exercise of Restraint and Care in Designating Material for Protection:

8 Each Party or Non-Party that designates information or items for protection under this
 9 Order must take care to limit any such designation to specific material that qualifies
 10 under the appropriate standards. The Designating Party must designate for protection
 11 only those parts of material, documents, items, or oral or written communications that
 12 qualify so that other portions of the material, documents, items, or communications
 13 for which protection is not warranted are not swept unjustifiably within the ambit of
 14 this Order.

15 Mass, indiscriminate, or routinized designations are prohibited. Designations
 16 that are shown to be clearly unjustified or that have been made for an improper
 17 purpose (e.g., to unnecessarily encumber the case development process or to impose
 18 unnecessary expenses and burdens on other parties) may expose the Designating Party
 19 to sanctions.

20 If it comes to a Designating Party's attention that information or items that it
 21 designated for protection do not qualify for protection, that Designating Party must
 22 promptly notify all other Parties that it is withdrawing the inapplicable designation.

23 6.2 Manner and Timing of Designations: Except as otherwise provided in
 24 this Order, or as otherwise stipulated or ordered, Disclosure or Discovery Material
 25 that qualifies for protection under this Order must be clearly so designated before the
 26 material is disclosed or produced.

27 Designation in conformity with this Order requires:

28 (a) for information in documentary form (e.g., paper or electronic

1 documents, but excluding transcripts of depositions or other pretrial or trial
2 proceedings), that the Producing Party affix at a minimum, the legend
3 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that
4 contains protected material. If only a portion or portions of the material on a page
5 qualifies for protection, the Producing Party also must clearly identify the protected
6 portion(s) (e.g., by making appropriate markings in the margins).

7 A Party or Non-Party that makes original documents available for inspection
8 need not designate them for protection until after the inspecting Party has indicated
9 which documents it would like copied and produced. During the inspection and before
10 the designation, all of the material made available for inspection shall be deemed
11 “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants
12 copied and produced, the Producing Party must determine which documents, or
13 portions thereof, qualify for protection under this Order. Then, before producing the
14 specified documents, the Producing Party must affix the “CONFIDENTIAL legend”
15 to each page that contains Protected Material. If only a portion or portions of the
16 material on a page qualifies for protection, the Producing Party also must clearly
17 identify the protected portion(s) (e.g., by making appropriate markings in the
18 margins).

19 (b) all testimony given in depositions shall be treated as CONFIDENTIAL
20 and protected by this Order until fourteen days after delivery of the certified
21 Reporter’s Transcript (in final form) to all parties. On or before fourteen (14) days
22 after delivery of the certified Reporter’s Transcript (in final form) to the parties, the
23 Designating Party shall identify the page(s) and line(s) of the deposition testimony
24 that it designates as CONFIDENTIAL. If questions arise during any deposition that
25 implicate CONFIDENTIAL Information, only those persons that are allowed to
26 receive CONFIDENTIAL Information pursuant to this Order may be present.
27 Plaintiff agrees to maintain and share with Defendants an ongoing list of the parties’
28 respective designations to deposition testimony.

(c) for information produced in some form other than documentary, and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the object or container or containers in which the information is stored the legend “CONFIDENTIAL.” If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

6.3 Inadvertent Failures to Designate: If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party’s right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

7. CHALLENGING CONFIDENTIALITY DESIGNATIONS

7.1 Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court’s Scheduling Order.

7.2 Meet and Confer. The Challenging Party shall initiate the dispute resolution process under Local Rule 37.1 et seq., and Section 4 of Judge Audero’s Procedures (“Mandatory Telephone Conference for Discovery Disputes”).¹

7.3 The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party’s designation until the Court rules on the challenge.

¹ Judge Audero’s Procedures are available at <https://www.cacd.uscourts.gov/honorable-maria-audero>.

1 8. ACCESS TO AND USE OF PROTECTED MATERIAL

2 8.1 Basic Principles. A Receiving Party may use Protected Material that is
3 disclosed or produced by another Party or by a Non-Party in connection with this
4 Action only for prosecuting, defending, or attempting to settle this Action. Such
5 Protected Material may be disclosed only to the categories of persons and under the
6 conditions described in this Order. When the Action has been terminated, a Receiving
7 Party must comply with the provisions of the “Final Disposition” section, below.

8 Protected Material must be stored and maintained by a Receiving Party at a
9 location and in a secure manner that ensures that access is limited to the persons
10 authorized under this Order.

11 8.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
12 otherwise ordered by the court or permitted in writing by the Designating Party, a
13 Receiving Party may disclose any information or item designated
14 “CONFIDENTIAL” only to:

15 (a) The Receiving Party’s Outside Counsel of Record in this Action, as well
16 as employees of said Outside Counsel of Record to whom it is reasonably necessary
17 to disclose the information for this Action;

18 (b) The officers, directors, and employees (including House Counsel) of the
19 Receiving Party and insurers to whom disclosure is reasonably necessary for this
20 Action;

21 (c) Experts (as defined in this Order) of the Receiving Party to whom
22 disclosure is reasonably necessary for this Action and who have signed the
23 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

24 (d) The court and its personnel;

25 (e) Court reporters and their staff;

26 (f) Professional jury or trial consultants, mock jurors, and Professional
27 Vendors to whom disclosure is reasonably necessary for this Action and who have
28 signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

(g) The author or recipient of a document containing the information or a custodian or other person who otherwise possessed or knew the information;

(h) During their depositions, witnesses, and attorneys for witnesses, in the Action to whom disclosure is reasonably necessary provided: (1) the deposing party requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will not be permitted to keep any confidential information unless they sign the “Acknowledgment and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be separately bound by the court reporter and may not be disclosed to anyone except as permitted under this Stipulated Protective Order; and

(i) any mediator or settlement officer, and their supporting personnel, mutually agreed upon by any of the parties engaged in settlement discussions.

9. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER LITIGATION

If a Party is served with a subpoena or a court order issued in other litigation that compels disclosure of any information or items designated in this Action as “CONFIDENTIAL,” that Party must:

(a) Promptly and in no event more than three business days notify in writing the Designating Party. Such notification shall include a copy of the subpoena or court order;

(b) Promptly notify in writing the party who caused the subpoena or order to issue in the other litigation that some or all of the material covered by the subpoena or order is subject to this Protective Order. Such notification shall include a copy of this Stipulated Protective Order; and

(c) Cooperate with respect to all reasonable procedures sought to be pursued by the Designating Party whose Protected Material may be affected.

If the Designating Party timely seeks a protective order, the Party served with

1 the subpoena or court order shall not produce any information designated in this action
 2 as “CONFIDENTIAL” before a determination by the court from which the subpoena
 3 or order issued, unless the Party has obtained the Designating Party’s permission. The
 4 Designating Party shall bear the burden and expense of seeking protection in that court
 5 of its confidential material and nothing in these provisions should be construed as
 6 authorizing or encouraging a Receiving Party in this Action to disobey a lawful
 7 directive from another court.

8 10. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE
 9 PRODUCED IN THIS LITIGATION

10 10.1 Application.

11 The terms of this Stipulated Protective Order are applicable to information
 12 produced by a Non-Party in this Action and designated as “CONFIDENTIAL.” Such
 13 information produced by Non-Parties in connection with this litigation is protected by
 14 the remedies and relief provided by this Order. Nothing in these provisions should be
 15 construed as prohibiting a Non-Party from seeking additional protections.

16 10.2 Compliance with Federal and State Law Regarding the Confidentiality
 17 and Privacy of Patients’ Medical Information and Records

18 This Order shall not be interpreted as an admission by any party in regard to
 19 any disputed point on the parties’ patient-health-information discovery dispute. All
 20 parties reserve the right to make any arguments concerning under what circumstances
 21 a patient’s medical information and records are protected from disclosure under state
 22 and federal law.

23 10.3 Notification.

24 In the event that a Party is required, by a valid discovery request, to produce a
 25 Non-Party’s confidential information in its possession, and the Party is subject to an
 26 agreement with the Non-Party not to produce the Non-Party’s confidential
 27 information, then the Party shall:

- 28 (a) Promptly notify in writing the Requesting Party and the Non-Party

1 that some or all of the information requested is subject to a confidentiality agreement
2 with a Non-Party;

3 (b) Promptly provide the Non-Party with a copy of the Stipulated
4 Protective Order in this Action, the relevant discovery request(s), and a reasonably
5 specific description of the information requested; and

6 (c) Make the information requested available for inspection by the
7 Non-Party, if requested.

8 (d) If the Non-Party fails to seek a protective order from this court
9 within 14 days of receiving the notice and accompanying information, if the
10 information sought is not otherwise protected from discovery (e.g., because of
11 patients' rights to the confidentiality of their medical records and information), the
12 Receiving Party may produce the Non-Party's confidential information responsive to
13 the discovery request. If the Non-Party timely seeks a protective order, the Receiving
14 Party shall not produce any information in its possession or control that is subject to
15 the confidentiality agreement with the Non-Party before a determination by the court.
16 Absent a court order to the contrary, the Non-Party shall bear the burden and expense
17 of seeking protection in this court of its Protected Material.

18 11. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

19 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed
20 Protected Material to any person or in any circumstance not authorized under this
21 Stipulated Protective Order, the Receiving Party must immediately (a) notify in
22 writing the Designating Party of the unauthorized disclosures, (b) use its best efforts
23 to retrieve all unauthorized copies of the Protected Material, (c) inform the person or
24 persons to whom unauthorized disclosures were made of all the terms of this Order,
25 and (d) request such person or persons to execute the "Acknowledgment and
26 Agreement to Be Bound" that is attached hereto as Exhibit A.

12. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court.

13. MISCELLANEOUS

13.1 Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

13.2 Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

13.3 Filing Protected Material. A Party that seeks to file under seal any Protected Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Party's request to file Protected Material under seal is denied by the court, then the Receiving Party may file the information in the public record unless otherwise instructed by the court.

14. FINAL DISPOSITION

After the final disposition of this Action, within 60 days of a written request by

1 the Designating Party, each Receiving Party must return all Protected Material to the
2 Producing Party or destroy such material. As used in this subdivision, “all Protected
3 Material” includes all copies, abstracts, compilations, summaries, and any other
4 format reproducing or capturing any of the Protected Material. Whether the Protected
5 Material is returned or destroyed, the Receiving Party must submit a written
6 certification to the Producing Party (and, if not the same person or entity, to the
7 Designating Party) by the 60 day deadline that (1) identifies (by category, where
8 appropriate) all the Protected Material that was returned or destroyed and (2) affirms
9 that the Receiving Party has not retained any copies, abstracts, compilations,
10 summaries or any other format reproducing or capturing any of the Protected Material.
11 Notwithstanding this provision, Counsel are entitled to retain an archival copy of all
12 pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,
13 correspondence, deposition and trial exhibits, expert reports, attorney work product,
14 and consultant and expert work product, even if such materials contain Protected
15 Material. Any such archival copies that contain or constitute Protected Material
16 remain subject to this Protective Order as set forth in Section 5 (DURATION).

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1 15. Any violation of this Order may be punished by any and all appropriate
2 measures including, without limitation, contempt proceedings and/or monetary
3 sanctions.

4 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

5 DATED: May 1, 2024

ELLIS GEORGE LLP

Matthew L. Venezia

George B. A. Laiolo

Andrew R. Iglesias

9 By: /s/ Matthew L. Venezia

10 Matthew L. Venezia

11 Attorneys for Plaintiff ANTHONY RANDALL

12 **FILING ATTORNEY'S ATTESTATION OF SIGNATURES**

13 I, Matthew L. Venezia, attest that all other signatories listed, concur in this
14 filing's content and have authorized this filing.

15 **[additional signatures on next page]**

1 DATED: May 1, 2024

s/ Thomas G. Weber

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Attorneys for Defendant United Network for
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16 DATED: May 1, 2024

s/ Jon P. Kardassakis

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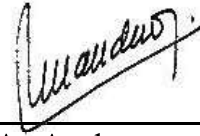
Telephone: 213.250.1800

Facsimile: 213.250.7900

Attorneys for Defendant Cedars-Sinai
Medical Center

FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

DATED: May 6, 2024



Hon. Maria A. Audero
United States District Court Magistrate Judge

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EXHIBIT A**ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND**

I, [print or type full name], of [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on [date] in the case of [insert formal name of the case and the number and initials assigned to it by the court]. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint [print or type full name] of [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date:

City and State where sworn and signed:

Printed name:

Signature: